

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LINSEY WISDOM,

Plaintiff,

vs.

KIA AMERICA, INC. f/k/a KIA
MOTORS AMERICA, INC. and
ABC, INC. 1-3,

Defendants.

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CIVIL ACTION

FILE NO. _____

PLAINTIFF’S COMPLAINT FOR DAMAGES

COMES NOW LINSEY WISDOM, in the above-styled action, by and through her attorneys of record, and files this first complaint for damages against KIA AMERICA, INC. f/k/a KIA MOTORS AMERICA, INC. and ABC, INC. 1-3 (collectively, “**Defendants**”), and shows this Court as follows:

PARTIES

1.

Linsey Wisdom (“**Plaintiff**”) is domiciled in the state of Georgia and has been domiciled in the state of Georgia at all times relevant to this case.

2.

Kia America, Inc. f/k/a Kia Motors of America, Inc. (“**Defendant Kia**”) is a foreign profit corporation existing under the laws of California with its

principal place of business at 111 Peters Canyon Road, Irvine, California 92606, and may be served through its registered agent, The Corporation Company (FL), 106 Colony Park Drive, Suite 800-B, Cumming, GA 30040-2794 (Forsyth County).

3.

ABC, Inc. 1-3 (“**Defendants ABC Inc. 1-3**”) are currently unknown entities who may have liability in respect of the design, manufacture, distribution, sale, and/or otherwise operation of Kia vehicles including the vehicle purchased by Plaintiff.

JURISDICTION AND VENUE

4.

This Court has jurisdiction pursuant to 28 U.S.C. § 1332. Federal diversity jurisdiction exists because Plaintiff is domiciled in Georgia, no Defendant is resident in Georgia, and the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.00. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

5.

Venue in the Northern District of Georgia is proper pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions on which the claims asserted herein occurred in this district and the subject contract was executed

in the district. Additionally, Defendants have placed a product in the stream of commerce in this district and have received substantial revenue and profits from the sales and leasing of said vehicles in this district.

BACKGROUND

6.

For years, Defendants have been manufacturing and selling defective vehicles to the public.

7.

Defendants' vehicles are defective in a number of respects because Defendants have systematically and deliberately chosen to reduce the production cost of their vehicles by using cheaper and poorer quality components—thus prioritizing their own profit margin over the safety of their customers.

8.

One instance of this involves Defendants' decision to utilize crankshafts that have been improperly heat-treated. Over time, this causes metal shavings to accumulate inside the engines of Kia vehicles. Although the problem does not manifest immediately, after approximately 60,000 miles, Kia vehicles can start to exhibit severe engine failure.

9.

The defective engines can “lock”—i.e., completely seize up or cease to function—without warning, whether the vehicles are stationary or, more dangerously, in motion on roads and highways.

10.

When an engine locks in this way, drivers are unable safely to control their vehicles, which can result in catastrophic and fatal consequences.

11.

Defendants have long known about this problem, which poses an extreme risk to Kia customers and other road users.

FACTS

12.

In approximately 2018, Plaintiff purchased a white 2015 Kia Optima with VIN # 5XXGN4A75FG492499 (“**Kia Optima**”).

13.

Plaintiff was subsequently made aware that her Kia Optima may need a “product improvement” to prevent a problem that could arise in her engine block.

14.

When Plaintiff inquired with several dealerships about implementing the “product improvement,” she was told there was a six-month wait for service appointments.

15.

On May 25, 2021, Plaintiff was eventually able to schedule an appointment with Rick Case Kia at 3190 Satellite Boulevard, Northwest, Duluth, GA 30096 (Gwinnett County) for the “product improvement” to be implemented on June 12, 2021.

16.

On June 6, 2021, the Kia Optima passed an emissions inspection without issue.

17.

On June 12, 2021, as Plaintiff was travelling to her appointment at Rick Case Kia, the engine of the Kia Optima locked suddenly.

18.

Plaintiff lost the ability safely to navigate the Kia Optima.

19.

Plaintiff had only just gotten off the interstate when the incident occurred.

20.

It is incredibly dangerous for a vehicle's engine to suddenly seize and lock like.

21.

Plaintiff could easily have been involved in a fatal collision with other road-users as a proximate result of this defect in her Kia Optima.

22.

The Kia Optima was unable to be driven away.

23.

Plaintiff had to abandon the Kia Optima at the location where its engine had locked.

24.

The Kia Optima was eventually towed away by roadside assistance.

25.

As a proximate result of Defendants' negligence, Plaintiff was caused damages including but not limited to property damage in the form of the disabling damage to Plaintiff's vehicle, out of pocket expenses, and lost wages.

COUNT ONE
STRICT LIABILITY NEGLIGENCE / PRODUCTS LIABILITY

26.

Plaintiff re-alleges and incorporates herein the allegations contained in paragraphs 1 through 25 above as if fully restated.

27.

The incident occurred as a direct and proximate result of Defendants' negligence, failure to exercise ordinary care, and their disregard for the safety of others.

28.

Defendants were negligent in one or more of the following respects:

- a. they negligently designed, manufactured, distributed, advertised, and sold a defective product—namely, the 2017 Kia Sportage and its constituent parts;
- b. they negligently failed adequately to warn purchasers of the defects;
- c. they negligently failed to repair the defects;
- d. they negligently did not recall the entire vehicle, choosing rather to attempt to replace componentry and update software; and
- e. they exposed global citizens—including Plaintiff—to great risk of serious injury and death.

- f. Kia Optima: 2015 Optima Kia Motors America (Kia) is recalling certain 2013-2015 Optima and 2014-2015 Sorento vehicles. Brake fluid may leak inside the Hydraulic Electronic Control Unit (HECU), possibly resulting in an electrical shortage.
- g. The lawsuit alleges that certain Kia vehicles (called the "Class Vehicles") have a defect that can cause engine seizure, stalling, engine failure, and possibly.

**COUNT TWO
PUNITIVE DAMAGES**

29.

Plaintiff re-alleges and incorporates herein the allegations contained in paragraphs 1 through 28 above as if fully restated.

30.

Defendants had prior knowledge of the defect in the Kia Sportage vehicles.

31.

Defendants deliberately prioritized profit margins over the safety of the public, including Plaintiff.

32.

Defendants' actions showed willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of

conscious indifference to consequences such that an award of punitive damages is appropriate pursuant to O.C.G.A. § 51-12-5.1.

**COUNT THREE
ATTORNEY'S FEES AND COSTS**

33.

Plaintiff re-alleges and incorporates herein the allegations contained in paragraphs 1 through 32 above as if fully restated.

34.

There is no bona fide controversy as to liability.

35.

Defendants have been stubbornly litigious, have acted in bad faith, and have caused Plaintiff unnecessary trouble and expense, thereby violating O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiff prays that she has a trial on all issues and judgment against Defendants as follows:

- a. that Plaintiff recovers special damages, including but not limited to lost wages, out of pocket expenses, and the full value of Plaintiff's property damage in an amount to be proven at trial;
- b. that Plaintiff recovers punitive damages;
- c. that Plaintiff recovers attorney's fees and costs;
- d. that Plaintiff recovers such other and further relief as is just and proper;

and

e. that all issues be tried before a jury.

This 3rd day of July 2024.

**WILLIAMS & ASSOCIATES
LAW FIRM, P.C.**

/s/ Rita T. Williams

Rita Tucker Williams

GA State Bar No.: 763978

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